

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ROBERTO PEREZ JR.,

Petitioner,

VS.

JOHN A RUPERT,

Respondent.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 2:15-CV-352

OPINION AND ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL


Petitioner filed this § 2254 petition on August 17, 2015, challenging his Nueces County conviction for manslaughter (D.E. 1). Pending is his motion for appointment of counsel (D.E. 7).

There is no constitutional right to counsel in federal habeas proceedings. *Johnson v. Hargett*, 978 F.2d 855 (5th Cir. 1992). Rule 8 of the Rules Governing § 2254 Cases requires that counsel be appointed if the habeas petition raises issues which mandate an evidentiary hearing. The filing fee has not been paid and service of process has not been ordered. At this point there are no issues which mandate an evidentiary hearing.

An evidentiary hearing will be scheduled and counsel will be assigned *sua sponte* if there are issues which mandate a hearing. Moreover, counsel may be assigned if discovery is ordered and issues necessitating the assignment of counsel are evident. Rule 6(a) of the Rules Governing § 2254 Cases; *Thomas v. Scott*, 47 F.3d 713, 715 n. 1 (5th Cir. 1995).

Accordingly, petitioner's motion for appointment of counsel (D.E. 7) is denied without prejudice.

ORDERED this 25th day of September, 2015.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE